SFA Update

National Marine Fisheries Service April/May 1998

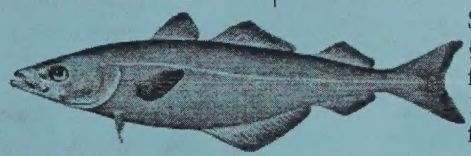
NMFS Finalizes National Standards Guidelines for Fishery Conservation and Management

The NMFS has finalized revisions and additions to the National Standards guidelines (guidelines), which assist in the development and review of FMPs, amendments, and regulations prepared by the regional Fishery Management Councils and the Secretary of Commerce. On May 5, 1998, NMFS published the final rule for guidelines in the Federal Register at 63 FR 24212. The revisions and additions to the guidelines implement the October 1996 SFA amendments to the Magnuson-Stevens Act.

NMFS first published a proposed rule to amend the guidelines in August 1997 at 62 FR 41907, with a comment period ending mid-September. Because of issues regarding interpretation of some Magnuson-Stevens Act provisions, the comment period for National Standard 1 guidelines was reopened in late December 1997 (62 FR 67608). Based on public comments received from both comment periods, NMFS has made several changes from the proposed rule. The following information is intended as an overview and is not meant to be inclusive of the changes to the guidelines; for all the changes and for comments/responses, please refer to the language of the Federal Register notice.

One of the overall changes to the proposed guidelines relates to the use of the terms "shall," "must," and "should." "Shall" is used only when quoting directly from the statute, "must" denotes a statutory obligation, and "should" indicates that an action is strongly recommended to fulfill the Secretary's interpretation of the Magnuson-Stevens Act.

A substantial change has been made to NS1 regarding the length of rebuilding programs for overfished stocks. Where the proposed rule had merely repeated the verbiage of the Magnuson-Stevens Act regarding this standard, the final rule provides a more flexible interpretation. In structuring a rebuilding program, the starting point is the length of time in which a stock could be rebuilt in the absence of fishing mortality on that stock. Other changes to NS1 proposed guidelines include a reference to guidelines concerning essential fish habitat; more flexibility in managing mixed-stock fisheries; and requiring that the annual harvest level under an OY control rule "must" instead of "should" always be less than or equal to the harvest level under an MSY control rule.



Introductory text in NS2 guidelines have been revised to clarify that Stock Assessment and Fishery Evaluation (SAFE) reports are intended to summarize the most recent information concerning a variety of aspects of the fishery, including fishing communities. To make NS5 guidelines consistent with the intent of Congress, the language has been revised so that economic efficiency is "considered," rather than "encouraged." In order to reflect the obligation under NS8, the guidelines have been revised, replacing "should" with "must."

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Five-Year Strategic Plan for Fisheries Research Available

As part of its efforts to implement the SFA, the NMFS Office of Science and Technology has developed a five-year Strategic Plan for Fisheries Research (Plan). The Plan covers fisheries, habitat, and protected species research to meet requirements of the Magnuson-Stevens Act. Fishery managers use this research to make scientifically sound decisions to achieve sustainable use of our Nation's living marine resources.

The Plan, prepared in accordance with SFA §205 (MSA §404), encompasses four areas of research: 1) research to support fisheries conservation and management; 2) conservation and engineering research; 3) research on the fisheries; and 4) information management research. The Plan's research goals were developed to reflect the goals and strategies of the May 1997 *NOAA Fisheries Strategic Plan*. The five major fisheries research goals are: 1) Provide scientifically sound information and data to support fishery conservation and management; 2) Through conservation engineering research, contribute to efforts to reduce bycatch and adverse effects on essential fish habitat, promote efficient harvest of target species, and to improve the data from fishery surveys; 3) Through ecological research on marine communities and ecosystems, and fishery research, provide scientific information and data to increase long-term economic and social benefits to the nation from living marine resources; 4) Improve the fishery information

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National Standard Guidelines

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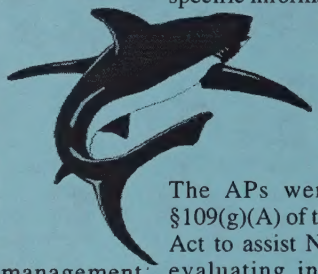
Because sustainable fisheries are predicated on healthy marine ecosystems, part of NS9 guidelines have been revised to clarify the consideration of bycatch effects of existing and planned conservation and management measures. Language has also been added to clarify that Atlantic HMS harvested in a commercial fishery that are not regulatory discards and that are tagged and released alive under a scientific tag-and-release program established by the Secretary are not considered bycatch. Additional changes include the revision of introductory text to emphasize that NMFS believes that the first priority for reducing bycatch should be to avoid catching bycatch species where possible; adding language to reflect that, in their evaluation of bycatch minimization measures, Councils must consider net benefits to the Nation; and revising language to indicate that, in the absence of quantitative estimates of the impacts of each alternative, Councils may use qualitative "measures" (rather than "estimates").

Congress established the National Standards to be the guiding principles for the management of our Nation's fishery resources, and to be the basis upon which all proposed management programs are judged. All FMPs and associated management measures prepared by either the Secretary or the Councils must satisfy the management principles established by the National Standards (see MSA §301). At the time the Standards were enacted, Congress also established a requirement that the Secretary prepare advisory guidelines. The guidelines expand on and interpret the National Standards, providing more detailed requirements for management under the Magnuson-Stevens Act. The guidelines also serve as an aid in the development of FMPs, and as a guide to the Secretary in the review and approval of FMPs.

NMFS Holds Joint Meeting of HMS and Billfish APs

The Highly Migratory Species (HMS) and Billfish Advisory Panels (APs) held a joint meeting in Tampa, Florida March 16-18, 1998 to discuss development of the HMS fishery management plan (FMP) and an amendment to the Billfish FMP. The APs focused on constructing overfishing definitions for HMS and rebuilding plans for those Atlantic highly migratory species that NMFS has classified as overfished. Currently, Atlantic bluefin tuna, swordfish, blue marlin, white marlin and the 22 species that make up the large coastal shark management complex are classified as overfished. The Sustainable Fisheries Act [§109(g); MSA §304(g)] requires NMFS to prepare rebuilding plans for these species by September 30, 1998.



The APs also discussed the possibility of using time/area closures to help reduce discards of juvenile swordfish and bluefin tuna in HMS fisheries. Dr. Jean Cramer from NMFS' Southeast Fisheries Science Center and Karyl Brewster-Geisz from the NMFS Office of Sustainable Fisheries, HMS Division, have analyzed discard trends in the pelagic longline fishery by season and fishing area and presented their findings to the APs. George Bell and Paul Raymond of the NMFS Office of Enforcement discussed enforcement issues in HMS fisheries as well as some of the enforcement concerns associated with time/area closures.

Several scientists made presentations at the joint AP meeting. Dr. Pamela Mace of NMFS' Southeast Fisheries Science Center presented information on the precautionary approach to fisheries management and some of its implications for developing overfishing definitions and rebuilding programs. Dr. Joseph Powers, also of the Southeast Fisheries Science Center, discussed the various components of rebuilding programs and factors that the APs and NMFS might consider in developing rebuilding plans for overfished HMS. Dr. Jerry Scott, Dr. Clay Porch, Dr. Steve Turner, and Dr. Eric Prince, presented specific information on stock status and considerations for rebuilding populations of large coastal sharks, bluefin tuna, swordfish, and blue and white marlin, respectively.

The APs were established under §109(g)(A) of the Sustainable Fisheries Act to assist NMFS in collecting and evaluating information for use in developing FMPs and FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. The APs are comprised of representatives of commercial and recreational fishing interests, the academic and environmental communities, the regional fishery management councils, the Atlantic and Gulf coast states, and the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas.

Strategic Plan

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management system; and 5) Improve the effectiveness of external partnerships with fishers, managers, scientists, conservationists, and other interested groups to build a balanced approach to addressing fisheries research. The fisheries service and its partners must develop ways to strengthen and expand cooperative relationships to meet common fisheries goals.

For a copy of the Strategic Plan for Fisheries Research, visit the SFA website at <<http://www.nmfs.gov/sfa>>, or contact Mark Chandler, NMFS, F/ST2, 1315 East-West Hwy., Silver Spring, MD 20910.

The SFA Update is published periodically by the Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910. Suggestions and comments should be sent to the above address, ATTN: SFA Update.

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Implementing the Sustainable Fisheries Act: NMFS Accomplishments to Date

Immediately after the SFA was enacted, NMFS developed a strategy to implement the SFA. This Implementation Plan contains numerous, detailed tasks whose completion is necessary to implement the requirements of the SFA. A computerized tracking system of the Implementation Plan tasks is available on the SFA homepage online at <<http://www.nmfs.gov/sfa>>. The National Oceanic and Atmospheric Administration (NOAA) Office of General Counsel for Fisheries (GCF) incorporated the SFA changes and amendments into a consolidated version of the Magnuson-Stevens Act; it is available at the same web site. Another document prepared by GCF and located on the SFA homepage is A Guide to the Sustainable Fisheries Act. This document summarizes and interprets each section of the SFA and includes legislative history on most sections. Since the SFA became law, NMFS has succeeded in implementing many of its requirements. Highlights of completed tasks follow.

• March-April 1998 - held the second meeting of the Federal Investment Task Force in Tampa, FL March 5-7; published a notice of availability for schedules and updates for amending FMPs to incorporate EFH provisions in the Federal Register on March 31 (63 FR 15375); held a joint meeting of HMS and Billfish APs in Tampa, FL, March 16-18.

• January-February 1998 - published a notice of availability for the Strategic Plan for Fisheries Research in the Federal Register on February 17 (63 FR 7760; see related story, p. 1); held the first meeting of the Federal Investment Task Force in Silver Spring, MD January 6-8; held the third and final Ecosystem Principles AP meeting February 26-27 in Key Largo, FL; sponsored a workshop for the members of the NMFS Individual Fishing Quota (IFQ) Advisory Panels and of the National Research Council (NRC) Committee to Study IFQs in New Orleans, LA, January 24 & 25.

• October-December 1997 - Reopened public comment period for national standard 1 guidelines on December 29 (see related story, p. 1); delivered the Report on the Contribution of Bycatch to Charitable Organizations to Congress on December 17; Published Interim final guidelines for the description and identification of essential fish habitat in the Federal Register on December 19; published a notice in the Federal Register on December 12 outlining a possible approach for implementing a Fishing Vessel Registration and Information System and prepared a discussion draft of that approach; implemented the Massachusetts Fishing Partnership Health Plan [MSA § 401(f)] on October 20 with coverage begun on December 1. Panel meetings, workshops and hearings held included: the first meeting of the highly migratory species (HMS) AP (October 16-17); third and final public meeting on community development quotas held by the National Research Council (December 2); 22 scoping meetings for Atlantic HMS during November; second Ecosystem Principles AP meeting (December 15-16).

• August/September 1997 - Report of the Status of Fisheries of the United States [MSA § 304(e)], was sent to the Councils on September 30; the proposed Guidelines for Carrying Observers [MSA §403(a)], was published in Federal Register on 22 September (62 FR 49463); the final rule regarding the addition of a Tribal Representative to the Pacific Fishery Management Council was published in the Federal Register on September 10 (62 FR 47584); a draft proposal for Guidelines for Fishing Capacity Reduction was published on the Internet at <<http://www.nmfs.gov/sfa/proprules>> on August 22; the final rule on Policy Guidelines for Emergency Rules was published in the Federal Register on August 21(62 FR 44421); and a proposed rule for Recusal of Council Members was published in the Federal Register on August 7 (62 FR 42474). Panel meetings, workshops and hearings in August and September included: Red Snapper Economics Peer Review Panel meeting (August 18-21) and Science & Management Peer Review Panel meeting (August 25-29); Ecosystem Principles Advisory Panel (AP) meeting (September 9-10); HMS/Billfish AP meeting (September 18); HMS/Longline Technical Working Group meeting (September 18); House Committee on Natural Resources oversight hearing (September 18); and HMS/Longline AP meeting (September 19).

• June /July 1997 - Proposed National Standard Guidelines were developed and published in the Federal Register [62 FR 41907], the 45-day comment period for these proposed guidelines ended September 18, 1997; a proposed rule containing procedures for soliciting nominations from Treaty Tribes with fishing rights in California, Idaho, Oregon and Washington, and for appointing a new Indian Tribal representative to the Pacific Fishery Management Council was published in the Federal Register (62 FR 35468), the comment period for this proposed rule was extended to August 11; the HMS Pelagic Longline Fishery AP met July 14; the HMS Billfish AP met July 22-23; and the Red Snapper Statistics Peer Review Panel met July 21-25.

• May 1997 - A Final Rule on Foreign Fishing Vessels in Internal Waters, a Rule regarding Negotiated Conservation and Management Procedures, and a notice of the membership of the Ecosystem Principles AP were published in the Federal Register.

• April 1997 - A Notice requesting nominations to Red Snapper Peer Review Panels, a notice announcing membership of two HMS APs, a Proposed Rule regarding EFH, and a notice requesting comments on other HMS APs were published in the Federal Register.

SFA Implementation

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• March 1997 - A notice requesting nominations to an Ecosystem Principles AP, an ANPR regarding a Central Lien Registry System for Limited Access Permits, and a Rule regarding the lobster fishery in Maine "pocket" waters were published in the Federal Register.

• February 1997 - NMFS surveyed all Federal FMPs to identify existing standards and measures implemented for the purpose of reducing bycatch and prepared a report of its findings for the State Department. A notice seeking nominations to HMS Advisory Panels (APs) was published in the Federal Register.

• January 1997 - Through its Northeast Fisheries Center, NMFS prepared and submitted a report to Congress on the New England fishing capacity reduction initiative.

• December 1996 - A letter report to Congress regarding plans for implementing bycatch reduction agreements under the SFA was prepared and transmitted. In addition, a revised schedule for key Secretarial events was distributed.

• November 1996 - Amendments to definitions in the Atlantic Coastal Fisheries Cooperative Management Act were reviewed. Necessary changes have been made. NMFS also prepared and sent guidance to the Regional Fishery Management Councils regarding the new review schedule for FMPs and FMP amendments by the Secretary of Commerce (Secretary). An Advance Notice of Proposed Rule-making (ANPR) on Essential Fish Habitat (EFH), was published in the Federal Register.

Upcoming AP meetings

The HMS Division of the NMFS Office of Sustainable Fisheries will hold meetings of its Billfish and HMS APs to discuss draft management alternatives and draft rebuilding plans. The meetings will be held May 26-28, 1998 at the Islandia Marriott Long Island, 3635 Express Drive North, Happauge, NY, (516) 232-3000.

The meeting schedule is as follows:
May 26: 3pm-7pm - Billfish AP
May 27: 8:30am-12 noon - Billfish AP
1pm-5pm - Joint meeting of Billfish AP & HMS AP (to discuss common issues, such as EFH)
6pm-8pm - Public Comment
May 28: 8am-4pm - HMS AP

For additional information about these meetings, please contact Pat Wilbert in the HMS Division at (301) 713-2347.

INTERNET http://www.nmfs.gov/sfa

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